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Apple Inc.

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN FRANCISCO DIVISION

ASHLEY GJOVIK,

Plaintiff,

v.

APPLE INC.,

Defendant.

Case No. 23-cv-4597-EMC

**[PROPOSED] ORDER GRANTING  
DEFENDANT APPLE INC.'S MOTION  
TO DISMISS PLAINTIFF'S SECOND  
AMENDED COMPLAINT**

Dept: Courtroom 5, 17th Floor  
Judge: Honorable Edward M. Chen  
Date: February 29, 2024  
Time: 1:30 p.m.

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1 Pending before the Court is Defendant Apple, Inc.'s Motion to Dismiss Plaintiff's Second  
2 Amended Complaint. Having considered the relevant papers and pleadings on file with the Court  
3 in this matter, as well as the arguments of counsel, the Court determines:

- 4 1. The Court **DISMISSES, with prejudice**, Plaintiff's First Claim under the Sarbanes-Oxley  
5 Act ("SOX") because Plaintiff fails to allege facts that, if true, would demonstrate that she  
6 complained about conduct that she reasonably believed violated a provision enumerated in  
7 18 U.S.C. § 1514A(a)(1).
- 8 2. The Court **DISMISSES, with prejudice**, Plaintiff's Second Claim under the Dodd-Frank  
9 Wall Street Reform and Consumer Protection Act because it is largely derivative of her  
10 First Claim. To the extent her SOX claim and Dodd-Frank claim are based on the same  
11 purported complaints, her Dodd-Frank claim fails for the same reasons her SOX claim fails.  
12 To the extent her Dodd-Frank claim is based on other purported complaints, her Dodd-  
13 Frank claim fails because she fails to allege that she made such complaints to the SEC.
- 14 3. The Court **DISMISSES, with prejudice**, Plaintiff's Third Claim under the Bane Civil  
15 Rights Act because Plaintiff fails to allege facts showing Apple interfered with Plaintiff's  
16 constitutional or statutory rights, or that such interference included actual or attempted  
17 threats, intimidation, or coercion.
- 18 4. The Court **DISMISSES, with prejudice**, Plaintiff's Fourth Claim under the Ralph Civil  
19 Rights Act because Plaintiff does not allege facts suggesting any threat of violence by  
20 Apple, or that any conduct by Apple was based on her political affiliation or other protected  
21 characteristic.
- 22 5. The Court **DISMISSES, with prejudice**, Plaintiff's Fifth Claim under RICO because the  
23 Private Securities Litigation Reform Act bars it. Moreover, Plaintiff fails to state a claim  
24 under 18 U.S.C. § 1962(a) because she fails to plead that Apple used or invested money it  
25 received from supposed racketeering to injure her, and she fails to state a claim under 18  
26 U.S.C. § 1962(c) and (d) because she fails to allege the existence of an "enterprise" separate  
27 and distinct from Apple or a pattern of racketeering activity.
- 28 6. The Court **DISMISSES, with prejudice**, Plaintiff's Sixth Claim asserting strict liability for

1 ultrahazardous activities because it is time-barred and/or operating a facility on a Superfund  
2 site and operating a silicon manufacturing facility are not ultrahazardous activities.

3 7. The Court **dismisses, with prejudice**, Plaintiff's Eighth Claim under California Labor Code  
4 section 98.6 predicated on an alleged violation of California Labor Code section 96(k)  
5 because Plaintiff fails to allege she was terminated for asserting a recognized constitutional  
6 right.

7 8. The Court **dismisses, with prejudice**, the Eleventh Claim alleging nuisance per se because  
8 Plaintiff has not, as required, identified a law that *expressly* declares it is a nuisance to  
9 operate a silicon manufacturing facility.

10  
11 Accordingly, Defendant Apple Inc.'s Motion to Dismiss is **GRANTED**, and Plaintiff's  
12 first, second, third, fourth, fifth, sixth, eighth, and eleventh claims are **DISMISSED with**  
13 **prejudice**, as set forth above.

14  
15 **IT IS SO ORDERED**

16  
17 Dated: \_\_\_\_\_

\_\_\_\_\_  
HON. EDWARD M. CHEN  
U.S. DISTRICT COURT JUDGE